

At  
 ROBERT N. TRGOWICH, Clerk  
 U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF INDIANA

AUG 17 2020

- FILED -

# UNITED STATES DISTRICT COURT

## NORTHERN DISTRICT OF INDIANA

[This form is for prisoners to challenge one State court conviction or one probation/parole revocation proceeding.]

If you want to challenge more than one, you must file a separate form for each one.

If you are challenging a prison disciplinary proceeding or a federal conviction, you need a different form.

### 28 U.S.C. § 2254 HABEAS CORPUS PETITION BY A PERSON IN STATE CUSTODY

Name (under which you were convicted):  Jason L. Anderson	Case No. [For a new case in this court, leave blank. The court will assign a case number.]  3:20-cv-646
Place of Confinement: Manchester Federal Correctional Institute	

[Once you know your case number, it is VERY IMPORTANT that you include it on everything you send to the court for this case. DO NOT send more than one copy of anything to the court. NEATLY print in ink (or type) your answers.]

#### CONVICTION AND SENTENCE

1. What State court entered the judgment you are challenging?

LaPorte Superior Court No. 1

Criminal case number: 46D01-0010-CF-124. Did you plead guilty?  Yes.  No.

Length of sentence: 10 years and 20 years concurrent. Date of sentencing: 4 / 6 / 2006

Crime(s) for which you were sentenced: Count I Dealing in Cocaine, Count II

Dealing in Cocaine. Count I-Class B felony, Count II-Class A felony

#### PROBATION/PAROLE REVOCATION

2. Are you challenging a probation/parole revocation?  No.  Yes, the revocation hearing was held on: \_\_\_\_/\_\_\_\_/\_\_\_\_ by \_\_\_\_\_ and I was revoked because \_\_\_\_\_

[For a challenge to a revocation proceeding, list only direct appeals, post-conviction relief petitions, and other collateral attacks that were associated with challenging the revocation.]

#### DIRECT APPEAL [Do not include post-conviction relief petitions or other collateral attacks in this section.]

3. Did you directly appeal to the Court of Appeals of Indiana?  No.  Yes, case number: \_\_\_\_\_

Result: \_\_\_\_\_ Date of result: \_\_\_\_\_

Did you seek transfer to the Indiana Supreme Court?  No.  Yes, case number: \_\_\_\_\_

Result: \_\_\_\_\_ Date of result: \_\_\_\_\_

Did you petition for certiorari to the United States Supreme Court?  No.  Yes, case number: \_\_\_\_\_

Result: \_\_\_\_\_ Date of result: \_\_\_\_\_

[DO NOT write in the margins or on the back of any pages. Attach additional pages if necessary.]

**FIRST POST-CONVICTION RELIEF PETITION**

4. Did you file a post-conviction relief petition in State court?  No.  Yes, case number: \_\_\_\_\_  
 Name of court: \_\_\_\_\_ Date of filing: \_\_\_\_/\_\_\_\_/\_\_\_\_\_  
 Result: \_\_\_\_\_ Date of result: \_\_\_\_/\_\_\_\_/\_\_\_\_\_  
 Did you appeal to the Court of Appeals of Indiana?  No.  Yes, case number: 19A-CR-02003  
 Result: Denied Date of result: 1/30/2020  
 Did you seek transfer to the Indiana Supreme Court?  No.  Yes, case number: 19A-CR-02003  
 Result: Denied Date of result: 5/21/2020

**OTHER COLLATERAL ATTACKS**

5. Other than the cases listed above, have you filed anything else in State court challenging this conviction or revocation?  
 No.  Yes, I filed: Motion to Correct Errors + Erroneous Sent. Case number: 46D01-0010-CF-124  
 Name of court: LaPorte Superior Court No. 1 Date of filing: 7/30/2019  
 Result: Denied Date of result: 7/30/2019  
 Did you appeal to the Court of Appeals of Indiana?  No.  Yes, case number: 19A-CR-02003  
 Result: Denied Date of result: 1/30/2020  
 Did you appeal to the Indiana Supreme Court?  No.  Yes, case number: 19A-CR-02003  
 Result: Denied Date of result: 5/21/2020

6. Have you challenged this conviction or revocation in federal court?  No.  Yes, case number: \_\_\_\_\_  
 Name of court: \_\_\_\_\_ Result: \_\_\_\_\_

7. Have you challenged this conviction or revocation in any other case or appeal?  No.  Yes. [Attach an additional sheet listing the nature of the proceeding, court, case number, file date, judgment date, and result.]

**FILING FEE [The fee for filing this habeas corpus petition is \$5.00.]**

8. Are you paying the \$5.00 filing fee?

Yes, I have authorized prison officials to deduct the money from my prisoner trust fund account and send it to the court.  
 No, I have attached a separate Prisoner Motion to Proceed in Forma Pauperis AND a copy of my inmate trust fund ledger for the past six months BECAUSE I have less than \$15.00 now AND I have received an average of less than \$15.00 a month during the past six months.

**GROUNDS RAISED IN THIS HABEAS CORPUS PETITION**

[State every ground on which you are being held in violation of the Constitution, laws, or treaties of the United States. Write the facts supporting each ground. Use simple English words and sentences. Do not use legal terms or quote from cases or statutes. If you want to submit a legal brief or arguments, attach a separate memorandum.]

**CAUTION:**

If you do not present every ground in this petition, you may be barred from doing so later.]

**GROUND ONE:** [Briefly describe your claim.] Petitioner was denied due process of law when the trial court created un-reasonable delay in sentencing for ten (10) years

Supporting Facts: [Do not argue or cite law. Just state the specific facts that support your claim.]

On March 29, 2001 I was sentenced on Count I to ten years imprisonment and placed on probation. I had plead guilty to Count II but the Court deferred sentencing on that Count for ten years. On ~~March 29, 2001~~ April 6, 2006 my probation was revoked on Count I and I was sentenced to twenty years on Count II. On May 30, 2019 the court revoked my probation on Count II and sentenced me to serve the balance of the sentence in custody consecutive to a Federal sentence which I am presently serving.

Did you present Ground One to the Indiana Supreme Court?  Yes - Explain when and how.  No - Explain why not.

On 3-13-2020 I filed a Petition To Transfer To The Indiana Supreme Court, the Courts reviewed the petition and denied the petition on 5-21-2020

**GROUND TWO:** [Briefly describe your claim.] The language on Count II was ambiguous and the sentence imposed violated the terms of the agreement on Count II.

Supporting Facts: [Do not argue or cite law. Just state the specific facts that support your claim.]

The plea agreement and sentencing order of March 29, 2001 provided that if the Petitioner failed to comply with the terms of probation on Count I that he would be sentenced on Count I as a Class A felony. The trial court instead violated Petitioner's probation, revoked it on April 6, 2006 and sentenced him on Count II.

The petitioner believed only Count I would be on his sentencing record until he was indicted federally and his sentencing record reflected that Count II was there. He was enhanced in federal court from 0-10 years to 15 years - Life because Count II is reflecting on his criminal record. The petitioner was enhanced to Armed Career Criminal, federally because of Count II.

Did you present Ground Two to the Indiana Supreme Court?  Yes - Explain when and how.  No - Explain why not.

On 3-13-2020 I filed a Petition To Transfer To The Indiana Supreme Court, the Courts reviewed the petition and denied the petition on 5-21-2020

**GROUND THREE:** [Briefly describe your claim.]

Supporting Facts: [Do not argue or cite law. Just state the specific facts that support your claim.]

[REDACTED]

Did you present Ground Three to the Indiana Supreme Court?  Yes - Explain when and how.  No - Explain why not.

**GROUND FOUR:** [Briefly describe your claim.]

Supporting Facts: [Do not argue or cite law. Just state the specific facts that support your claim.]

[REDACTED]

Did you present Ground Four to the Indiana Supreme Court?  Yes - Explain when and how.  No - Explain why not.

[DO NOT write in the margins or on the back of any pages. Attach additional pages if necessary.]

**TIMELINESS OF PETITION**

The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
  - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
  - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;
  - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
  - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

9. Explain why this petition is timely under the provisions of 28 U.S.C. § 2244(d).

When the petitioner found out that Count II of the state plea agreement was being used to enhance his federal sentence he filed motions to correct erroneous sentence. The petitioner did not know he was being prejudiced by Count II until he was indicted federally and then challenged convictions immediately in the state courts.

**RELIEF**

I ask for the following relief: I request that the specific performance of plea agreement be enforced or Count II be vacated or dismissed and probation violation be set aside or dismissed or any other relief to which I may be entitled.

**DECLARATION AND SIGNATURE**

I placed this petition in the prison mail system on 8/9/2020 at 6:00 am/pm.

[Do not fill in this date and time until you give this petition to prison officials to send to the court.]

I declare under penalty of perjury that all of the statements in this petition are true and agree to promptly notify the court of any change of address.

Jan L. Andh  
Signature

17123-027

Prisoner Number

[DO NOT write in the margins or on the back of any pages. Attach additional pages if necessary.]